

UNITED STATES DISTRICT COURT

Jury demand date:

68-C-90

D. C. Form No. 106A Rev.

6

TITLE OF CASE			ATTORNEYS			
JOSLYN MFG. AND SUPPLY CO., a corporation vs ALPHA CONSTRUCTION COMPANY, a corporation, and THE FIDELITY AND CASUALTY COMPANY OF NEW YORK, a corporation			For plaintiff: F. D. Hettinger, Don Hammer Boesche, McDermott & Eskridge Tulsa, Oklahoma 74103 NBT Bldg. 587-0145			
			For defendant: Sanders & McElroy (Both Defendants) 205 Denver Building Tulsa, Oklahoma 74119			
STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 5-1-68	Clerk		1968 4-12	Boesche	15 00	
J.S. 6 mailed 5-1-69	Marshal		4-18	CD 45		15 00
Basis of Action: Payment on account	Docket fee					
	Witness fees					
Action arose at: Osage County	Depositions					

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-12-68	Complaint filed and summons issued. ds	
4-23-68	Return on summons, filed. Served Alpha Construction Co. & the Fidelity & Casualty Co. of N.Y. by serving Mr. J. H. Monroe, Service Agent 10 mi. East of Hominy, Okla. on 4-20-68. (Fees: \$33.96)w	
4-29-68	Return on summons, filed. Served The Fidelity & Casualty Co. of N.Y. by serving Joe B. Hunt, State Ins. Commissioner on 4-19-68. (Fees: \$4.72)	
5-9-68	Defendants' motion for continuance (extension of time) to answer, filed. b	
5-9-68	Order filed, defendants granted until 5-19-68 within which to answer. (Noble C. Hood, Clerk) b	
5-17-68	Answer of the Fidelity & Casualty Co. of N.Y., filed. w	
5-17-68	✓ Answer and counterclaim of Alpha Construction Company, filed. w	
8-1-68	Ordered that case is set for pre-trial on Friday, August 9, 1968, at 11:00 a.m. (FD-J)w	
8-9-68	Pre-trial hearing held, jurisdiction waived. Defendants request jury trial. It is ordered that the parties file simultaneous briefs within 20 days and case is set for Jury Trial on Monday, October 14, 1968 at 9:30 A. M. (Fred Daugherty-Judge) b	
8-9-68	Plaintiff's reply to answers and answer to counterclaim of defendants, filed in open Court. b	
9-5-68	Plaintiff's pre-trial brief, filed. w	
9-6-68	Brief of Defendants, filed, granted to file out of time (MME-C) js	
9-9-68	Motion for summary judgment of defendant, The Fidelity and Casualty Co. of New York filed. h <i>delivered to Judge</i>	
9-9-68	Brief in support of motion for summary judgment filed. h <i>delivered to Judge</i>	
9-12-68	Ordered by the Court that the plaintiff respond, with brief, to the defendant, Fidelity and Casualty Company of New York's motion for summary judgment, within 15 days from date. (Fred Daugherty-Judge) b	
9-27-68	Brief in opposition to motion for summary judgment, filed. w <i>mailed</i>	
10-4-68	Deposition of J. H. Monroe, on behalf of Plaintiff, taken by Loyd J. Christesson, CSR. \$76.00 paid by plaintiff. ds	
10-7-68	Ordered that case stricken from jury assignment of 10-14-68 by agreement of parties. (FD-J)w	
10-22-68	Order filed that the motion for Summary Judgment of The Fidelity and Casualty Company of New York is denied. (Fred Daugherty - Judge)	
10-22-68	Copies of above order mailed to counsel. b	
2-12-69	Case set for Jury trial on Wed. 3-12-69 at 9:30 A.M. (FD-J)h	
3-12-69	Case called for trial. Defts. directed to file briefs and requested instructions at 5:00 p.m. and trial is passed until Thursday 3-13-69 at 9:30 a.m. 5:00 p.m. Parties file requested instructions. (FD-J)b	
3-13-69	Plaintiff's failure to give notice of buyer's intention to claim damages, filed. b	
3-13-69	Case tried to a jury on October 13, 14 and 15, 1969, Answers to the interrogatories and verdicts, that the defendant recover \$13,056.00 for returned credits and \$89,440.00 for damages for delays. Verdicts ordered received, read and filed in open Court. Jury discharged. (Allen E. Barrow, Judge) (LC-CSR) b	ordered
3-15-69	Trial exhibits, filed. b	
3-24-69	Case set for hearing on reserved issues and settlement of judgment on Tuesday 4-8-69 at 2:30 p.m. (FD-J)m	
3-28-69	Deposition of J. B. Herrera, on behalf of the plaintiff, taken by Loyd J. Christesson, CSR. Fee paid by plaintiff, \$48.00. ds	
4-8-69	Hearing held on reserved issues and settlement of judgment, ordered by the Court that the parties submit briefs on the interest question and attorney's fee within 10 days. (Fred Daugherty-Judge) <i>Lee Cook-CSR</i> b	

(Continued on Page No. 3, Sheet No. 2)

D. C. 110A Rev. Civil Docket Continuation

Sheet No 2

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DATE	PROCEEDINGS	Date Order or Judgment Noted
4-18-69	Bried of defendants on issues of attorney's fees and interest, filed. <i>mailed 9-6-4-18</i>	
4-21-69	Hearing held to settle judgment and interest and attorneys fee. Court finds that the plaintiff recover \$51,638.00 with interest at 6% from 6-1-65 to date of judgment and 10% from date of judgment and that claim was a liquidated claim and that plaintiff recover \$5,000.00 attorney fees against defendant Alpha Construction Company, Plaintiff to prepare judgment and submit to defendant and Court. Judgment to be entered on the filing thereof. (Fred Daugherty - Judge) (LM-CSR) b	
4-28-69	Judgment filed and entered, that the plaintiff have and recover of the defendants Alpha Construction Company and The Fidelity and Casualty Company of New York, jointly and severally, the sum of \$51,638.00 with interest at 6% from 6-1-65 to date and the sum from the defendant Alpha Construction Company the sum of \$5,000.00 as attorneys fees; and that the judgments bear interest at the rate of 10% from date. (Fred Daugherty - Judge) Copies mailed. b	
4-28-69	Plaintiff's motion for new trial, filed. b <i>mailed</i>	
4-28-69	Plaintiff's brief in support of motion for new trial, filed. b <i>mailed</i>	
4-30-69	Ordered by the Court that the defendants respond, with brief, to plaintiff's motion for new trial, within 15 days. (Fred Daugherty - Judge) b	
5-8-69	Motion of The Defendant, Alpha Construction Company, For A New Trial, filed. js	
5-8-69	Motion of The Defendant, The Fidelity and Casualty Company of New York, For A New Trial, filed.	
5-8-69	Brief In Support of Motions For New Trial Of Defendants, filed. js	
5-9-69	Ordered by the Court that the plaintiff respond, with brief, within 10 days from date, to the defendants, Fidelity and Casualty Company of New York and Alpha Construction Company, Motions for New Trial. (Fred Daugherty - Judge) b	
5-13-69	Ordered by the Court that the defendant Alpha is granted 10 days from 5-15-69 to file brief herein. (FD-J)g	
5-19-69	Brief In Response to Deftendants Motions For New Trial, filed. js <i>mailed 13</i>	
5-26-69	Answer brief of defendants with reference to motions for new trial filed. (h <i>mailed 13</i>	
6-2-69	Reply brief of plaintiff respecting motions for new trial, filed. m <i>mailed 5-27</i>	
7-14-69	Order overruling defendants motions for new trial, filed and entered. (Fred Daugherty - Judge) b	
7-14-69	Order overruling plaintiff's motion for new trial, filed and entered. (Fred Daugherty - Judge) b	

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